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# SBO/SBAP Role in Rulemaking

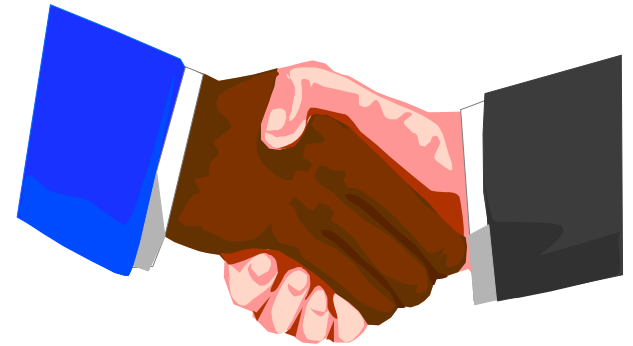
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# Is there a need to be involved?

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- Advocate for small businesses
  - To protect interest
  - Tailor rules that can be met
- Understanding:
  - The need for the rule
  - The requirement of the rule
  - The implementation of the rule
- Building relationships





# Is there any statutory requirement for involvement?

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- 507:
  - Does not require SBO/SBAP involvement in rule making
  - Does not prohibit involvement
  - Language can be interpreted to suggest that rule development is a proper role
- EPA's guidelines for implementation 507
  - "Facilitate and promote the participation of small businesses in the development of new regulations that impact small businesses"

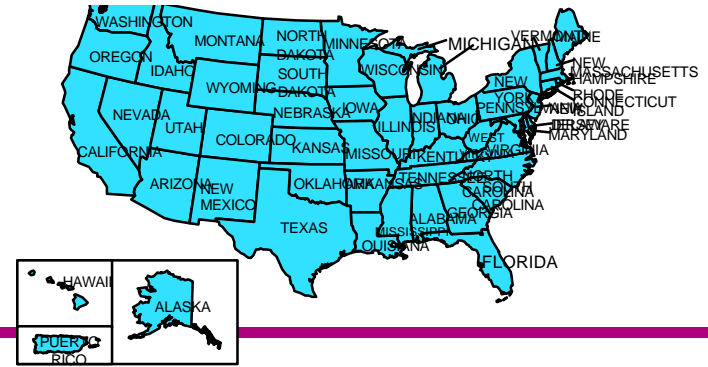


# FACA

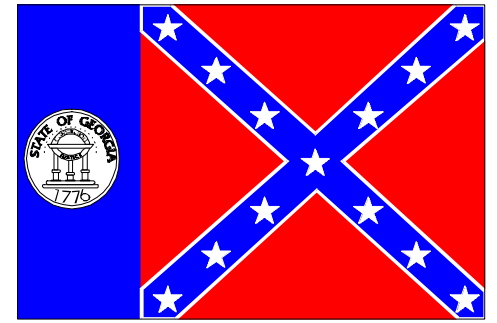
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- The Federal Advisory Committee Act (FACA) was enacted in 1972 for use by the Federal Government to obtain advice and recommendations on proposed regulations.
- Under FACA, EPA established the Clean Air Act Advisory Committee to provide advice and counsel to EPA on policy and technical issues associated with implementation of the Clean Air Act of 1990.

# State requirements



- Some state have requirements to address impact of proposed rules on small businesses
- State requirements may require the regulatory agency to address impact
- May not require involvement of impacted small business
- All require notice and opportunity to comment

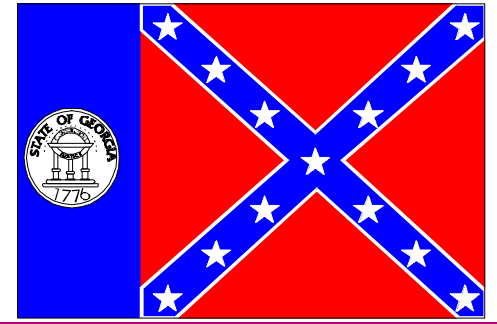


# Georgia's requirement

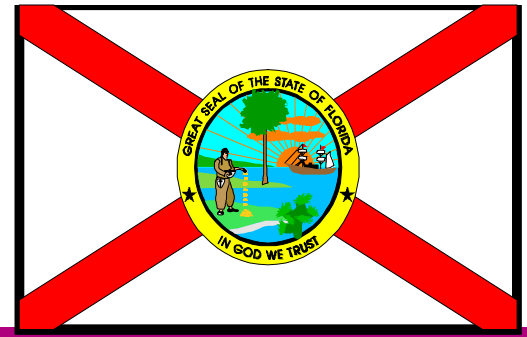
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- Any rule that will have an economic impact on businesses, the act requires four actions be considered in reducing the economic impact on small businesses
  - Establishing different requirements or reporting requirements or time table for small businesses
  - Clarify, consolidate or simplify the compliance and reporting requirements for small businesses
  - Establish performance rather than design standards for small businesses
  - Exempt small businesses from any or all requirements of the rules

# In Georgia



- All air rules are reviewed by the Ombudsman for Small Business Assistance
  - Ombudsman reviews and provides impact analysis for:
    - ▶ Air Rules
    - ▶ Clean Fueled Fleet Rules
    - ▶ Auto Inspection and Maintenance Rules

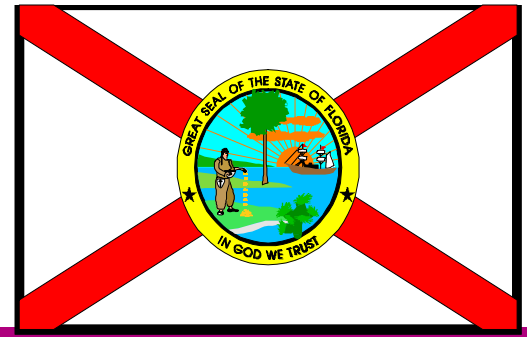


# Florida's requirement

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- Each rule shall consider the impact on small businesses, small counties or small cities.
- The adopting agency shall consider methods for reducing impact on small businesses, counties or cities:
  - Establishing less stringent compliance or reporting requirements
  - Establish less stringent schedules or deadlines or reporting
  - Consolidating or simplifying compliance or reporting requirements





# Florida's continued

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- Establishing performance standards or best-management practices to replace design or operational standards
- Exempting small businesses, small counties, or cities from the rule
- Requires notification of the Small Business Ombudsman of the Office of Tourism, Trade, and Economic Development if impact indicated
  - Ombudsman can propose regulatory alternatives
  - If agency does not adopt alternatives, Agency must provide a detail response as to why not



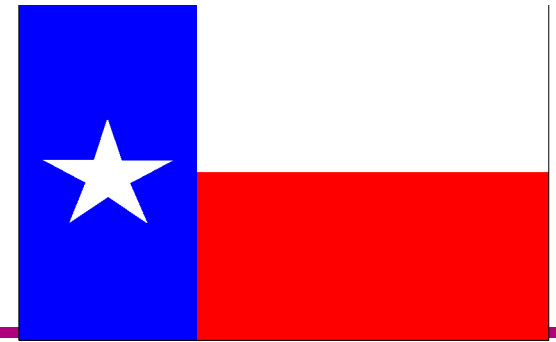
# Kentucky's requirement

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- Agency must provide a regulatory impact analysis that includes:
  - The type and numbers businesses, local governments ... affected by the rule
  - Direct and indirect costs or savings:
    - Effect on cost of living and employment
    - Effect on the cost of doing business
    - Compliance, reporting, and paper work
  - Impact on state and local revenues
  - And a laundry list of others

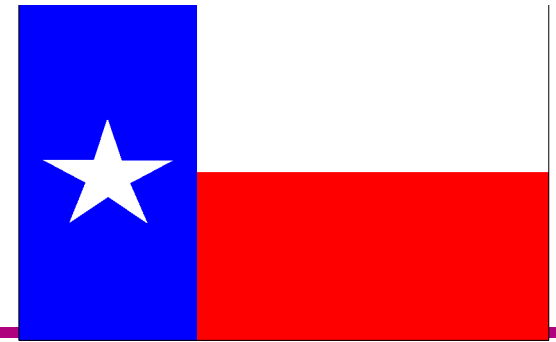
# Texas's Requirements

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- Sec. 2006.002. Adoption of Rules With Adverse Economic Effect.
  - To reduce an adverse effect on small businesses, an agency may
  - (1) establish separate compliance or reporting requirements for small businesses;
  - (2) use performance standards in place of design standards for small businesses; or
  - (3) exempt small businesses from all or part of the rule.

# Texas's continued



- Before adopting a rule that would have an adverse economic effect on small businesses, a state agency shall prepare a statement of the effect of the rule on small businesses. The statement must include:
  - (1) an analysis of the cost of compliance with the rule for small businesses; and
  - (2) a comparison of the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the rule, using at least one of the following standards:
    - (A) cost for each employee;
    - (B) cost for each hour of labor; or
    - (C) cost for each \$100 of sales.



# Frustration of involvement

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- Not being notified
- Not being able to change or impact rules
  - Many rules are already adopted by EPA and state is adopting by reference
  - Rule may be adopted to meet a federal requirement, such as a SIP requirement
  - Rule already in wet concrete when we get involved
- Not having technical and financial resources
- Not having clout



# Where and when to get involved

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- Most rules are initiated at the federal level
  - Trade association should be involved
  - Very difficult for SBAP programs to get to the table
  - Would be more doable if handled by national SBO/SBAP organization

# State rule impact

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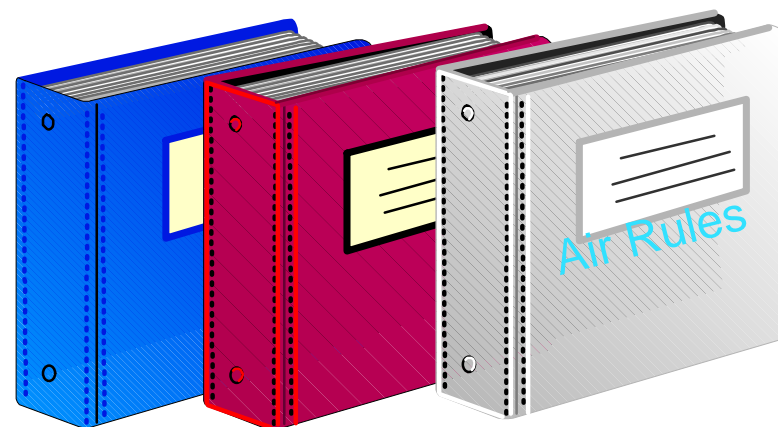
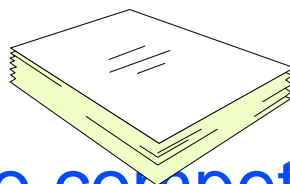
- Need to get involved early
  - Get involved when rule is being drafted
  - Work with rule writers
  - Get the industry involved
- Get on mailing list
  - Many states notify of proposed rules
- Check web sites
- Establish a dialogue with the rule writer's



# After the rule is adopted

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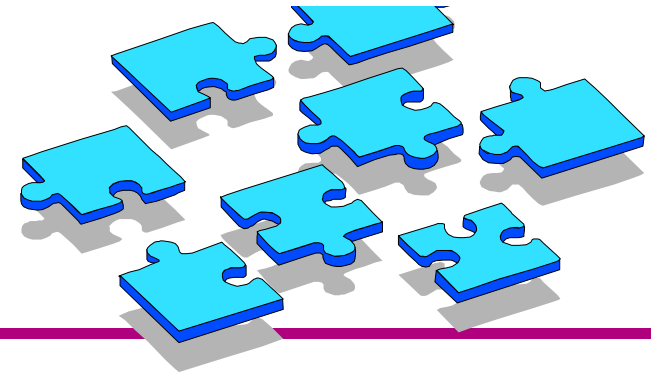
- Document problems
  - Industry ability to comply
    - ▶ Financial cost
    - ▶ Reporting
    - ▶ Monitoring
  - Industry ability to compete
- Document impact, or lack thereof, of the rule on the environment





# Problem rules

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- Discuss with management
  - Rewriting the rule to reduce impact
  - Raise threshold for applicability
- Trade association may lobby for change
- Propose a wavier if only one or two facilities need relief

# GOOD LUCK!

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- May your puzzles (rules) come together

